REMARKS/ARGUMENTS

Applicants respectfully request reconsideration and allowance of this application in view of the following comments.

Rejections under 35 USC § 112

Claim 2 stands rejected under 35 USC § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention.

Particularly the Examiner contends that "Becker mixer" is a trademark and thus the limitation can not be used to identify a distinct apparatus.

However, the Examiner is kindly requested to refer to the enclosed disclosure of EP 0 836 880 , wherein there is stated that mixers having blades or plowshares of a distinct geometry comprise "Becker-blades". For the Examiner's convenience, Applicants also enclose a machine translation of EP 0 836 880, and have underlined the reference to "Becker blade" on both the copy of EP 0 836 880 and on the English translation.

From the foregoing it can be seen that the expression "Becker-mixer" is a generally used term for a distinct type of a mixing apparatus, which is understood by those having ordinary skill in the art. More particularly, it can be seen that "Becker mixer" is not a trademark and consequently *Ex parte* Simpson 218 USPQ 1020 (Bd. App. 1982) as well as MPEP 2173.05(u) can not be applied to that issue.

The rejection of claim 2 under 35 U.S.C. 112, second paragraph, should accordingly now be withdrawn.

Rejections under 35 USC § 102

General remarks

Claims 1, 4, 5, 7 and 8 stand rejected under 35 USC § 102(b) as being anticipated by Hiller (US 1,735,393).

The Examiner contends that Hiller discloses a process commensurate to Applicants' Claim 1.

The Examiner relies on the fact that Hiller discloses on page 1, lines 97-100 that a "animal fat below its melting point" is being handled and that thereby said fat is melted to form a liquid phase. Furthermore that passage is cited against Applicants' Claims 5 and 8 for anticipating that protein-containing products from natural biological sources or from a biological process are being thawed.

First, it should be noted that this particular cited part of the Hiller reference pertains to the discussion of the prior art and therefore can not be seen as of being a contribution of Hiller to the art. Particularly said disclosure does not offer any method to solve a technical problem, but simply outlines the necessities imposed on processes in the packing industry. Accordingly such disclosure can not be freely combined with further aspects of the disclosure of the Hiller reference.

Second the method disclosed thereafter in the Hiller reference pertains to a process which pertains to method for "transferring a water-containing product from the solid to the liquid state" and not to a method for thawing a frozen, water-containing product.

This becomes apparent when referring to particular products being handled by both methods. Such a product (for example) is blood or its derivates. While Applicants use their method to avoid thermal stress (see [0007]) and handle their blood in Example 2 under mild temperature conditions (see [0022-0023]), the Hiller reference wishes to dry the blood and applies temperatures of up to 212°F, corresponding to approximately 100°C, being a temperature, where any protein therein is securely destroyed and ruined.

In Applicants' invention it's consistently stated that "ice" and "frozen" products are being handled and thus that the method of Applicants' Claim 1 is clearly determined to mean a method wherein products which contain such ice shall be thawed and not the product itself shall be liquefied.

Accordingly the person of ordinary skill in the art would never be led to Applicants' invention by the Hiller reference. The Hiller reference and Applicants' invention pertain to absolutely separate fields of endeavor.

Apart from the foregoing, it is further pointed out that according to Applicants' Claim 1 the water-containing product shall be thawed. As to the meaning of the Examiner, such product is "animal fat". Hence page 1, lines 97-100 can never be read on the limitations of Claims 5 and 8 of the present application, as fat is not a protein containing product, as it does not contain amino acids, but only carbohydrates. If proteins would be handled according to the method cited

by the Examiner these would be ruined as outlined before.

In short, Applicants respectfully submit that for the foregoing reasons the rejection of Claims 1, 4, 5, 7 and 8 as being anticipated by Hiller (US 1,735,393) under 35 USC § 102(b) should now be withdrawn.

Claims 1-3, 5, 7 and 8 stand rejected under 35 USC § 102(b) as being anticipated by Mange and Toze (US 4,846,054).

From the foregoing and from the fact that the Mange and Toze reference pertains to an "Apparatus for extracting fat from an animal material" which is more or less a meat grinder with attached extraction apparatus the person of ordinary skill in the art will never deduce any teaching from that disclosure.

However, for pure academic reasons, it shall be underlined that the meat grinder according to the Mange and Toze reference is operated at temperatures of up to 115°C (see Col. 2, lines 34-36), which again would ruin any temperature sensible product handled and clearly excludes "thawing", but underlines "transfer into liquid state" as outlined with regard to the Hiller reference.

Again Applicants method pertains to a method wherein products which contain ice shall be thawed and not the product itself shall be liquefied.

In short, Applicants respectfully submit that for the foregoing reasons the rejection of Claims 1, 4, 5, 7 and 8 as being anticipated by Mange and Toze (US 4,846,054) under 35 USC § 102(b) should now be withdrawn.

Finally Claims 1 and 4-9 are rejected under 35 USC § 102(b) as being anticipated by Swenson and Ridgway (US 2,924,952).

The disclosure of Swenson and Ridgway pertains to a "system and device for feeding mix and air to freezers, which operate to produce and dispense frozen mix-and-air products, such, for example, as milkshakes and "soft" ice-cream." (see. Col. 1, lines 15-18)

From that it should already be apparent that the disclosure of the Swenson and Ridgway reference pertains to exactly the opposite method than that of Applicants' invention as Claimed. Applicant desires to thaw products, while the Swenson and Ridgway desires to freeze a product.

In spite of that, the Examiner relies on Col. 4, lines 65-66 of the Swenson and Ridgway reference to find evidence for the Swenson and Ridgway reference disclosing a frozen product being thawed and further refers to Col. 5 lines 45-50 for evidence that the frozen product is continually submerged in the liquefied phase.

The cited part of the Swenson and Ridgway reference in Col. 4. lines 65-66 relates to the item depicted in Fig. 5, which in fact is a nozzle for feeding liquid product into the actual apparatus. Accordingly the product is not frozen and thawed therein, but kept in the molten state by the heating coil 152. Col. 5, lines 45-50 also relate to said item depicted in Fig. 5 and exemplifies that, if the paragraph before said lines is read as well, the item may protrude into the actual disclosed apparatus and that it thus may come to happen that frozen product enters the item. The only intention of the heating coil and the so associated heating of the frozen product is to keep the item free from clogging of frozen product. Accordingly said disclosure can not be combined with the "horizontal mixer" as to Fig. 1, which is not heated in contrast to Applicants'

Claim 1. The only heated part in the disclosure of the Swenson and Ridgway reference is said item depicted in Fig. 5.

In short, Applicants respectfully submit that for the foregoing reasons the rejection of Claims 1, 4, 5, 7 and 8 as being anticipated by Swenson and Ridgway (US 2,924,952) under 35 USC § 102(b) should now be withdrawn.

Applicants believe that the foregoing constitutes a bona fide response to all outstanding rejections.

Applicants also believe that this application is in condition for immediate allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

Early and favorable action is earnestly solicited.

Respectfully submitted,
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